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PRESS RELEASE

CESR consults on Best Execution & Transaction Reporting under MiFID

Today's announcement launches the fifth round of public consultation relating to CESR's MiFID Level 3 work programme (following record keeping, market data consolidation, inducements and passporting). The full work programme (Ref. CESR/06-550b) is available on CESR's website, under the page of MiFID Level 3 Expert Group.

Best Execution:

Best Execution is a key cornerstone of the MiFID regulatory architecture and has been identified accordingly as a key priority in CESR's MiFID Level 3 work programme. This consultation therefore provides an opportunity to all market stakeholders to offer input on guidance in a key area, where consistency amongst supervisors will be crucial in achieving an integrated pan-European Single Market in Financial Services.

MiFID's best execution requirements establish a new standard, which aims to promote two of CESR's most important objectives, namely market efficiency and investor protection. They provide a mechanism that requires firms to direct their order flows to execution venues that allow them to obtain the best possible result for their clients' orders on a consistent basis. This fosters competition between trading venues, ensuring efficient price formation and hence efficient markets, whilst at the same time promoting investor confidence by ensuring that investment firms will take all reasonable steps to execute their orders for the best possible result, by choosing the execution venue that appears most likely to do so.

In brief, CESR intends to issue a number of recommendations to its members that will set out a common approach in relation to the best execution requirements under MiFID with a view to fostering supervisory convergence. This consultation paper sets out a number of practical proposals and questions for a common approach with respect of the following issues:

- Contents of execution policy and arrangements;
- Disclosure to clients;
- Client consent;
- Relationships between firms in chains of execution;
- Review and monitoring;
- Execution quality data.

The paper does not however address, at this stage, questions of scope of application of the best execution requirements and all aspects related. CESR asked the European Commission for clarification on some of these issues and is currently waiting for further guidance. An addendum to this consultation paper will be published by CESR after having received a formal response from the Commission.

Responses to this consultation are welcomed by **16 March 2007** and can be submitted on CESR's website in the section Consultations.

Transaction reporting

In the area of transaction reporting, CESR has addressed some practical issues in order to enhance smooth operation of the MiFID transaction reporting regime. The consultation paper covers guidance as regards the reporting obligation by branches of investment firms; further details on what constitutes the execution of a transaction and approval of reporting channels.

As regards reporting of branches, CESR has identified that although specified by the MiFID Level 2 Regulation there may be cases where branches of investment firms would need to split the reporting of transaction between two competent authorities. In order to limit the burden for reporting firms, CESR is proposing a practical solution where under some conditions a branch could report all transactions carried out by the branch to the host competent authority. The exchange system will ensure that the relevant information is in the hands of all relevant authorities.

Another area of proposed CESR guidance relates to reporting of transactions in cases where several intermediaries are involved in the execution of a transaction. CESR is proposing to harmonise the core content of reporting in such cases. According to the proposal CESR members agree to collect (and exchange when needed) information from the transactions which are conducted by the immediate market facing party and transactions where the investment firm is undertaking the transaction on its own account. Finally CESR is proposing to simplify the process of approving the reporting channels in cases where a reporting channel is willing to operate in several Member States. CESR members will take into account whether another CESR member has already approved a given reporting channel and limit its own process to those factors which are linked to national specificities of the reporting regime.

The proposals are open for comments until **2 March 2007**.

Notes for Editors:

1. CESR is an independent Committee of European Securities Regulators. The role of the Committee is to:
    - Improve co-ordination among securities regulators;
    - Act as an advisory group to assist the EU Commission, in particular in its preparation of draft implementing measures in the field of securities;
    - Work to ensure more consistent and timely day-to-day implementation of community legislation in the Member States;
    - The Committee was established under the terms of the European Commission's decision of 6 June 2001 (2001/1501/EC).

    It is one of the two committees envisaged in the Final Report of the group of Wise Men on the regulation of European securities markets, chaired by Baron Alexandre Lamfalussy. The report itself was endorsed by the European Council and the European Parliament. The relevant documents are available on CESR's website.

2. CESR has established a 'MiFID Level 3 Expert Group' that will undertake work to deliver supervisory convergence in the day-to-day application of the legislation (i.e. Level 3). This group is chaired by Arthur Philippe, Director and member of the Management Board at the Commission de Surveillance du Secteur Financier, Luxembourg's securities supervisor. The secretariats' rapporteur of this group is Carlo Comporti, Deputy to the Secretary General at CESR and Director of Markets and Intermediaries.

    There are two working sub-groups reporting to the MiFID Level 3 Expert Group:
    - the 'Intermediaries sub-group', chaired by Antonio Carrascosa, Director General at the Comision Nacional del Mercado de Valores (CNMV), Spain's securities supervisor. The rapporteur of the 'intermediaries sub-group' is Diego Escanero, Senior Officer at CESR Secretariat;
    - the 'Markets sub-group', chaired by Hans Wolters, Head of Policy at the Autoriteit Financiele Markten, Holland's securities supervisor. The rapporteur of the 'markets sub-group' is Jari Virta, Senior Officer at CESR Secretariat.

    CESR has formed a MiFID Consultative Working Group which draws together technical experts from the markets and types of firms affected to provide advice on the technical practicalities of the guidance developed under the work programme. A list of its members is available on CESR's web site.

3. Each Member State of the European Union has one member on the Committee. The members are nominated by the Member States and are the Heads of the national public authorities competent in the field of securities. The European Commission has nominated the Director General of the DG Market, as its representative. Furthermore, the securities authorities of Norway and Iceland are also represented at a senior level. From 1 January 2006, the securities supervisors of Romania and Bulgaria attend CESR meetings as observers.

4. For further information please contact:

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